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STERNE, KESSLER, GOLDSTEIN & FOX P.L.L.C.			EXAMINER	
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Please find below and/or attached an Office communication concerning this application or proceeding.

The time period for reply, if any, is set in the attached communication.

Office Action Summary	Application No. 10/070,221	Applicant(s) TAKATORI ET AL.
	Examiner CANH LE	Art Unit 2439

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --
Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) OR THIRTY (30) DAYS, WHICHEVER IS LONGER, FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If no period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED. (35 U.S.C. § 133).

Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

Status

1) Responsive to communication(s) filed on 14 May 2009.
 2a) This action is FINAL. 2b) This action is non-final.
 3) Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

Disposition of Claims

4) Claim(s) 11-13 and 15-27 is/are pending in the application.
 4a) Of the above claim(s) _____ is/are withdrawn from consideration.
 5) Claim(s) _____ is/are allowed.
 6) Claim(s) 11-13 and 15-27 is/are rejected.
 7) Claim(s) _____ is/are objected to.
 8) Claim(s) _____ are subject to restriction and/or election requirement.

Application Papers

9) The specification is objected to by the Examiner.
 10) The drawing(s) filed on _____ is/are: a) accepted or b) objected to by the Examiner.
 Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).
 Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
 11) The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

Priority under 35 U.S.C. § 119

12) Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
 a) All b) Some * c) None of:
 1. Certified copies of the priority documents have been received.
 2. Certified copies of the priority documents have been received in Application No. _____.
 3. Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

* See the attached detailed Office action for a list of the certified copies not received.

Attachment(s)

1) Notice of References Cited (PTO-892)
 2) Notice of Draftsperson's Patent Drawing Review (PTO-948)
 3) Information Disclosure Statement(s) (PTO/95/08)
 Paper No(s)/Mail Date _____

4) Interview Summary (PTO-413)
 Paper No(s)/Mail Date _____
 5) Notice of Informal Patent Application
 6) Other: _____

DETAILED ACTION

Continued Examination Under 37 CFR 1.114

A request for continued examination under 37 CFR 1.114, including the fee set forth in 37 CFR 1.17(e), was filed in this application after final rejection. Since this application is eligible for continued examination under 37 CFR 1.114, and the fee set forth in 37 CFR 1.17(e) has been timely paid, the finality of the previous Office action has been withdrawn pursuant to 37 CFR 1.114. Applicant's submission filed on 05/14/2009 has been entered.

This Office Action is in response to the communication filed on 05/14/2009.

Claims 1-10 and 14 have been cancelled.

Claims 11, 15, 17-22, and 27 have been amended.

Claims 11-13 and 15-27 have been examined and are pending.

Response to Amendment

The Applicant's arguments filed 05/14/2009 with respect to claims 11-13 and 15-27 have been fully considered in view of the new ground(s) of rejection.

Specification

The specification is objected to as failing to provide proper antecedent basis for the claimed subject matter. See 37 CFR 1.75(d)(1) and MPEP § 608.01(o). Correction of the following is required:

There is no antecedent basis for "***a determining device***" for claim 17.

There is no antecedent basis for "*a tangible computer-readable medium*" for claim 20.

There is no further discussed within the application for "computer-readable medium". Thus, it is not clear from the disclosure what such medium would encompass. As the examiner is required to give each limitation its broadest reasonable interpretation commensurate with the disclosure, this medium can be interpreted to include signals and carrier waves, as well as memory and disk media."

Claim Rejections - 35 USC § 112

The following is a quotation of the first paragraph of 35 U.S.C. 112:

The specification shall contain a written description of the invention, and of the manner and process of making and using it, in such full, clear, concise, and exact terms as to enable any person skilled in the art to which it pertains, or with which it is most nearly connected, to make and use the same and shall set forth the best mode contemplated by the inventor of carrying out his invention.

Claim 17 is rejected under 35 U.S.C. 112, first paragraph, as failing to comply with the written description requirement. The claim(s) contains subject matter which was not described in the specification in such a way as to reasonably convey to one skilled in the relevant art that the inventor(s), at the time the application was filed, had possession of the claimed invention.

Claim 17 recites the limitation "*determining device*" in line 5. However, the aforementioned limitation was not described in the specification. As a result, the specification fails to convey to one skilled in the art at the time the application was filed, that the inventor(s) had possession of the claimed invention.

Claims 23-27 are dependent on claim 17, and therefore inherit the 35 U.S.C 112, first paragraph as failing to comply with the written description requirement of the independent claims.

The following is a quotation of the second paragraph of 35 U.S.C. 112:

The specification shall conclude with one or more claims particularly pointing out and distinctly claiming the subject matter which the applicant regards as his invention.

Claims 16-17, 20, 23, and 26 are rejected under 35 U.S.C. 112, second paragraph, as being indefinite for failing to particularly point out and distinctly claim the subject matter which applicant regards as the invention.

Claim 16 recites the limitation “*the services*” in line 3. It is unclear as to whether “*the services*” refers to.

Claim 17 recites the limitation “*a determining device*” in line 5. It is unclear how “*a host computer*” comprising “*a determining device*”.

Claim 20 recites the limitation “*the storage device*” in line 11. It is unclear as to whether “*the storage device*” refers to.

Claim 20 have been in valid as indefinite because the claim recite “*means for*” languages (“means for receiving”, “means for storing”, “means for transmitting”) and there is no structure disclosed in the specification. “*If there is no structure in the specification corresponding to the means-plus-function limitation in the claims, the claims will be found invalid as indefinite.*”

Biomedino, LLC vs. Waters Technology Corp., 490 F.3d 946, 950 (Fed. Cir. 2007)

Claim 20 recites “a tangible computer-readable medium having control logic stored thereon, the control logic enabling a communication device, control logic comprising: means for receiving, means for storing information, means for transmitting information”. Assuming that the above means for are implemented in hardware. It is unclear as to how the above means for are stored in the computer-readable medium.

Claim 23 recites the limitation “*the mobile communications device*” in line 6. There is insufficient antecedent basis for this limitation in the claim.

Claim 26 recites the limitation “*the services*” in line 3. It is unclear as to whether “*the services*” refers to.

The Examiner kindly requests the Applicant to point out with specificity (i.e. column and line) in the specification where it describes/supports the aforementioned limitation (Emphasis added).

Claim Rejections - 35 USC § 101

35 U.S.C. 101 reads as follows:

Whoever invents or discovers any new and useful process, machine, manufacture, or composition of matter, or any new and useful improvement thereof, may obtain a patent therefor, subject to the conditions and requirements of this title.

Claims 20-21 is rejected under 35 U.S.C. 101 because the claimed invention is directed to non-statutory subject matter.

Claim 20 recites “a tangible computer-readable medium” in line 2. The specification does not define a tangible computer-readable medium such as RAM, hard disk, flash drive, or a

CD-ROM. One of ordinary skill in the art could interpret computer-readable medium including a transmission type media such as carrier waves. Therefore, a computer-readable medium includes carrier waves which lack a necessary physical articles or objects to constitute a machine or manufacturer within the mean of 35 USC 101. They are clearly not a series of steps or acts to be a process not are they a combination of chemical compounds to be a composition of matter. As such, they fail to fall within a statutory category. They are, at least, functional descriptive material per se.

Claim 21 recites “a computer-readable medium” in line 1. The specification does not define a computer-readable medium such as RAM, hard disk, flash drive, or a CD-ROM. One of ordinary skill in the art could interpret computer-readable medium including a transmission type media such as carrier waves. Therefore, a computer-readable medium includes carrier waves which lack a necessary physical articles or objects to constitute a machine or manufacturer within the mean of 35 USC 101. They are clearly not a series of steps or acts to be a process not are they a combination of chemical compounds to be a composition of matter. As such, they fail to fall within a statutory category. They are, at least, functional descriptive material per se.

Claim Rejections - 35 USC § 103

The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

(a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negated by the manner in which the invention was made.

Claims 11, 17, and 21 are rejected under 35 U.S.C. 103(a) as being unpatentable over **Fukuo Tara** (JP 2000-76336) in view of **French et al.** (US 2001/0001877 A1).

As per claim 11:

Tara teaches a method, comprising:

(a) receiving a first request, from a service device, for information regarding authentication of a user, wherein the first request is in response to a transaction at the service device [Taro: par. [0024], “**The electronic banking authorization system 1-7 receives each authentication request demand from two or more Electronic Commerce Technology Division service provider equipment 1-6. It has the function to perform authentication for electronic banking alone about a user, and functions as an authentication center intensively prepared to two or more Electronic Commerce Technology Division service providers”**
Electronic Commerce Technology Division service provider is known as a service device].

Tara does not explicitly disclose:

(b) determining an authentication level required for the transaction based on a parameter of the transaction;

(c) performing authentication of the user for the transaction before completing the transaction when a first one of the authentication level is determined; and

(d) performing authentication of the user for the transaction after completing the transaction when a second one of the authentication level is determined.

However, French teaches system and method for authentication of network users with preprocessing, wherein

(b) determining an authentication level required for the transaction based on a parameter of the transaction [French: par. [0011]; determining whether to perform at least a second level of authentication depending on available information and the level of certainty desired];

(c) performing authentication of the user for the transaction before completing the transaction when a first one of the authentication level is determined [French: par. [0010]; a first level of authentication based on a first type of information]; and

(d) performing authentication of the user for the transaction after completing the transaction when a second one of the authentication level is determined [French: par. [0010]; a second level of authentication using another type of information].

Thus, it would have been obvious to the person of ordinary skill in the art at the time the invention was made to combine the method and system of Taro with the teaching of French to provide an authentication system and method that generate a score indicating the confidence or certainty level of authentication [French, par. [0017]].

As per claim 17:

This claim has limitations that are similar to those of claim 11, thus it is rejected with the same rationale applied against claim 11 above.

As per claim 21:

This claim has limitations that are similar to those of claim 11, thus it is rejected with the same rationale applied against claim 11 above.

Claims 12 and 22-24 are rejected under 35 U.S.C. 103(a) as being unpatentable over Fukuo Tara (JP 2000-76336) in view of French et al. (US 2001/0001877 A1) further in view of Fukai Shuichi et al. (JP 2000-92236).

As per claim 22:

The combination of Taro and French teach the subject matter as described in claim 11. Taro further teaches the method of claim 11, wherein the performing authentication comprises:

(a) transmitting to a device a second request for user identification information in response to receiving the first request [Taro: par. [0012]; “A means to ***** a user terminal through a public network based on this user identifier, and to receive the secrecy information of the user for electronic banking directly through this public network from a user terminal”];

(b) receiving the user identification information from a user communications device [Taro: par. [0012]; “A means to ***** a user terminal through a public network based on this user identifier, and to receive the secrecy information of the user for electronic banking directly through this public network from a user terminal”];

(c) comparing the user identification information and authentication information to generate comparison results [Taro: par. [0078]; “Furthermore, in order that an electronic banking authorization system may perform his identification by calling back the Electronic

Commerce Technology Division service user based on the subscriber information memorized by the database storage section, the Electronic Commerce Technology Division service provider side and the user side -- him -- necessity of the special authentication equipment for identification cannot be carried out, but simple composition can perform his identification, and trouble generating of an unjust claim of the charge by a user's malpractice etc. can be prevented"]; and

(d) using the comparison result for the authentication of the user **[Taro: par. [0078]]**.

Taro and French do not explicitly teach a user terminal as a mobile communication device.

However, Schuichi teaches a mobile communication device which transmits a user ID to a host communications devices to a demand **[Schuichi: par. [003]; "A communication terminal transmits a user ID to a provider to the demand. A provider will demand transmission of a password from a communication terminal next, if a user ID checks that it is regular ID. A communication terminal transmits a password to the demand. And a provider performs user authentication by distinguishing whether the transmitted password is a password corresponding to the user ID transmitted previously"; fig. 1, a communication terminal is a mobile device 100]**.

Thus, it would have been obvious to the person of ordinary skill in the art at the time the invention was made to combine the method of Taro and French by including the teaching of Schuichi to provide users with a means for safely and effectively performing authentication between a registered user and a service provider **[Schuichi: abstract and par. [0003]]**.

As per claim 12:

The combination of Taro, French, and Schuichi teach the subject matter as described in claim 22.

Schuichi further teaches the method of claim 22, wherein identification information of the user includes personal attributes of the user [Schuichi : par. [003]; **“A communication terminal transmits a user ID to a provider to the demand. A provider will demand transmission of a password from a communication terminal next, if a user ID checks that it is regular ID. A communication terminal transmits a password to the demand. And a provider performs user authentication by distinguishing whether the transmitted password is a password corresponding to the user ID transmitted previously”**; fig. 1, a communication terminal is a mobile device 100].

As per claim 23:

This claim has limitations that are similar to those of claim 22, thus it is rejected with the same rationale applied against claim 22 above.

As per claim 24:

This claim has limitations that are similar to those of claim 12, thus it is rejected with the same rationale applied against claim 12 above.

Claims 13 and 25 are rejected under 35 U.S.C. 103(a) as being unpatentable over Fukuo Taro (JP 2000-76336) in view of French et al. (US 2001/0001877 A1) and further in view of Fukai Shuichi et al. (JP 2000-92236) and further in view of Watanabe Schunichi (JP 06-215009).

As per claim 13:

The combination of Taro, French, and Schuichi teach the subject matter as described in claim 22.

Taro, French, and Schuichi do not explicitly teach receiving from the service device information regarding current services provided.

However, Schuichi teaches receiving from the service device information regarding current services provided [Schuichi: par. [005]; “**The purpose of this invention memorizes cumulatively the amount of money for purchase in a unit period for every card number of each card issuer. When the amount of money for purchase memorized about the credit card shown at the time of processing of transactions exceeds the purchase limit set up beforehand, it is in offering the card processing system which can prevent that buy it and unjust dealings of the large sums by the surroundings are performed by transmitting that to a card issuer”**].

Thus, it would have been obvious to the person of ordinary skill in the art at the time the invention was made to combine the method of Taro, French, and Schuichi of the invention by including the step of Schuichi to provide a credit card transaction processing having capability of dealing with unjust dealings and exceeding the purchase limit [Schuichi: par. [005]].

As per claim 25:

This claim has limitations that are similar to those of claim 13, thus it is rejected with the same rationale applied against claim 13 above.

Claims 15-16 and 26-27 are rejected under 35 U.S.C. 103(a) as being unpatentable over **Fukuo Taro** (JP 2000-76336) in view of **French** et al. (US 2001/0001877 A1) further in view of **Watanabe Schunichi** (JP 06-215009).

As per claim 15:

The combination of Taro and French teach the subject matter as described in claim 11.

Taro and French do not explicitly teach wherein the determining further comprises:

(a) comparing the parameter of the transaction with a parameter of a past transaction provided.

However, Schunichi teaches comparing the parameter of the transaction with a parameter of a past transaction provided [Schunichi: par. [005]; **The purpose of this invention memorizes cumulatively the amount of money for purchase in a unit period for every card number of each card issuer. When the amount of money for purchase memorized about the credit card shown at the time of processing of transactions exceeds the purchase limit set up beforehand, it is in offering the card processing system which can prevent that buy it and unjust dealings of the large sums by the surroundings are performed by transmitting that to a card issuer”**].

Thus, it would have been obvious to the person of ordinary skill in the art at the time the invention was made to combine the method of Taro and French by including the teaching of Schunichi to provide a credit card transaction processing having capability of dealing with unjust dealings and exceeding the purchase limit [Schunichi: par. [005]].

As per claim 16:

The combination of Taro and French teach the subject matter as described in claim 11.

Taro and French do not explicitly teach wherein the parameter is cost of service, services provision area, service provision frequency, or total sum of money for the services provided.

However, Schunichi teaches a card processing system wherein the parameter is cost of service, services provision area, service provision frequency, or total sum of money for the services provided [Schunichi: claim 1, claim 2; par. [005]]; **“The purpose of this invention memorizes cumulatively the amount of money for purchase in a unit period for every card number of each card issuer. When the amount of money for purchase memorized about the credit card shown at the time of processing of transactions exceeds the purchase limit set up beforehand, it is in offering the card processing system which can prevent that buy it and unjust dealings of the large sums by the surroundings are performed by transmitting that to a card issuer”**.

Thus, it would have been obvious to the person of ordinary skill in the art at the time the invention was made to combine the method of Taro and French by including the teaching of Schunichi to provide a credit card transaction processing having capability of dealing with unjust dealings and exceeding the purchase limit [Schunichi: par. [005]].

As per claim 26:

This claim has limitations that are similar to those of claim 16, thus it is rejected with the same rationale applied against claim 16 above.

As per claim 27:

This claim has limitations that are similar to those of claim 15, thus it is rejected with the same rationale applied against claim 15 above.

Claims 18-20 are rejected under 35 U.S.C. 103(a) as being unpatentable over Fukai Shuichi et al. (JP 2000-92236) in view of Fukuo Taro (JP 2000-76336) and further in view of French et al. (US 2001/0001877 A1).

As per claim 18:

Schuichi teaches a communications device, comprising:

(a) a receiver operable to receive, from a host computer, a request for information regarding authentication of a user [[at a service device, wherein the request is in response to a transaction at the service device]] [Schuichi : par. [003]; “**the provider of whom connection was required demands transmission of a user ID from a communication terminal first. A communication terminal transmits a user ID to a provider to the demand”;**];

(b) a storage device operable to store information regarding the authentication of the

user [Schuichi : par. [003]; “A communication terminal transmits a user ID to a provider to the demand”; It is inherent that communication terminal stores user ID in a memory before transmitting user ID to a provider]; and

(c) a transmitter operable to transmit information regarding the authentication of the user, stored in the storage device, to the host computer in response to receiving the request for information regarding the authentication of the user [Schuichi : par. [006]-[007]; “Moreover, invention according to claim 9 data in the information service equipment which transmits through a communication line to the attested communication terminal connection request from said communication terminal. It is characterized by having a terminal specific information receiving means to receive the terminal specific information which specifies the communication terminal concerned, and the authentication means which attests whether said connection request is recognized based on said terminal specific information which received”];

(d) wherein the communications device is a mobile communications device [Schuichi : fig. 1, box 100; par. [0010], cellular phone and land mobile radiotelephone].

Schuichi does not explicitly teach a request for information regarding authentication of a user at service device, wherein the request is in response to a transaction at the service device.

However, Taro teaches teach a request for information regarding authentication of a user at service device, wherein the request is in response to a transaction at the service device [Taro: par. [0024], “The electronic banking authorization system 1-7 receives each authentication request demand from two or more Electronic Commerce Technology Division service provider equipment 1-6. It has the function to perform authentication for electronic

banking alone about a user, and functions as an authentication center intensively prepared to two or more Electronic Commerce Technology Division service providers"; Electronic Commerce Technology Division service provider is known as a service device].

Thus, it would have been obvious to the person of ordinary skill in the art at the time the invention was made to combine the communication device of Schuichi by including the teaching of Taro to provide users with a means for performing banking authentication while preventing leaking of secrecy information **[Taro: par. 0011]**.

Schuichi and Taro do not explicitly teach,

(e) wherein the request for information is received before the transaction has completed when a first one of an authentication level is used for the transaction,

(f) wherein the request for information is received after the transaction has completed when a second one of an authentication level is used for the transaction.

However, French teaches system and method for authentication of network users with preprocessing, wherein

(e) the request for information is received before the transaction has completed when a first one of an authentication level is used for the transaction **[French: par. [0010]; a first level of authentication based on a first type of information]**.

(f) the request for information is received after the transaction has completed when a second one of an authentication level is used for the transaction **[French: par. [0010]; a second level of authentication using another type of information]**.

Thus, it would have been obvious to the person of ordinary skill in the art at the time the invention was made to combine the method and system of Shuichi and Taro By including the

teaching of French to provide an authentication system and method that generate a score indicating the confidence or certainty level of authentication [French, par. [0017]].

As per claim 19:

Schuichi further teaches the communications device of claim 18, wherein the transmitter is further operable to selectively transmit, to the host computer, information regarding the authentication of the user based on a type of authentication requested [Schuichi : par. [003]; “**A provider will demand transmission of a password from a communication terminal next, if a user ID checks that it is regular ID. A communication terminal transmits a password to the demand. And a provider performs user authentication by distinguishing whether the transmitted password is a password corresponding to the user ID transmitted previously”**].

As per claim 20:

This claim has limitations that are similar to those of claim 18, thus it is rejected with the same rationale applied against claim 18 above.

Conclusion

The examiner requests, in response to this Office action, support be shown for language added to any original claims on amendment and any new claims. That is, indicate support for newly added claim language by specifically pointing to page(s) and line number(s) in the

specification and/or drawing figure(s). This will assist the examiner in prosecuting the application. Failure to show support can result in a non-compliant response.

When responding to this office action, Applicant is advised that if Applicant traverses an obviousness rejection under 35 U.S.C. 103, a reasoned statement must be included explaining why the Applicant believes the Office has erred substantively as to the factual findings or the conclusion of obviousness See 37 CFR 1.111(b).

Additionally Applicant is further advised to clearly point out the patentable novelty which he or she thinks the claims present, in view of the state of the art disclosed by the references cited or the objections made. He or she must also show how the amendments avoid such references or objections See 37 CFR 1.111(c).

The prior arts made of record and not relied upon are considered pertinent to applicant's disclosure.

US 6256737 B1 to Bianco; Peter Garrett et al.

US 6282658 B1 to French; Jennifer et al.

US 6321339 B1 to French; Jennifer et al.

US 6496936 B1 to French; Jennifer et al.

US 7305562 B1 to Bianco; Peter Garrett et al.

Any inquiry concerning this communication or earlier communications from the examiner should be directed to Canh Le whose telephone number is 571-270-1380. The examiner can normally be reached on Monday to Friday 7:30AM to 5:00PM other Friday off.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Orgad Edan can be reached on 571-272-7884. The fax phone number for the organization where this application or proceeding is assigned is 571-273-8300.

Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free). If you would like assistance from a USPTO Customer Service Representative or access to the automated information system, call 800-786-9199 (IN USA OR CANADA) or 571-272-1000.

/Christian LaForgia/
Primary Examiner, Art Unit 2439

/Canh Le/
Examiner, Art Unit 2439

July 6, 2009